



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

Permit No.: VA0001627
Effective Date: March 11, 2009
Expiration Date: March 10, 2014

AUTHORIZATION TO DISCHARGE UNDER THE
VIRGINIA POLLUTANT DISCHARGE ELIMINATION SYSTEM
AND

THE VIRGINIA STATE WATER CONTROL LAW

In compliance with the provisions of the Clean Water Act as amended and pursuant to the State Water Control Law and regulations adopted pursuant thereto, the following owner is authorized to discharge in accordance with the information submitted with the permit application, and with this permit cover page, and Parts I and II of this permit, as set forth herein.

Owner: Corning, Incorporated
Facility Name: Corning, Incorporated – Danville Plant
City: Danville
Facility Location: 265 Corning Drive, Pittsylvania County

The owner is authorized to discharge to the following receiving stream:

Stream: Rutledge Creek
River Basin: Roanoke River
River Subbasin: Roanoke River
Section: 3
Class: III
Special Standards: None


Regional Director, Blue Ridge Regional Office


Date

A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

1. During the period beginning with the permit's effective date and lasting until the permit's expiration date, the permittee is authorized to discharge from outfall serial number 001.

Such discharges shall be limited and monitored by the permittee as specified below:

EFFLUENT CHARACTERISTICS	DISCHARGE LIMITATIONS				MONITORING REQUIREMENTS	
	MONTHLY AVERAGE		MINIMUM	MAXIMUM		FREQUENCY
	mg/l*	lb/day	mg/l	mg/l*	lb/day	
Flow (MGD)		NL	NA		NL	1/Week Measured
pH (standard units)		NA	6.0		9.0	2/Month Grab
Total Suspended Solids [a]	NL	55.1	NA	NL	110.2	1/3 Months 24-HC
Total Residual Chlorine [b]	0.011	NA	NA	0.016	NA	1/Week Grab
TPH [a]	10	NA	NA	15	NA	1/3 Months Grab
Temperature (°C)		NA	NA		32	1/Week Immersion Stabilization
Total Iron [a][b]	NL	3.0	NA	NL	5.9	1/3 Months 24-HC
Total Lead [a][b][c]	NL	0.19	NA	NL	0.39	1/3 Months 24-HC
Total Boron [b]	NL	NA	NA	NL	NA	1/Year 24-HC
Total Nitrogen [b]	NL	NA	NA	NL	NA	1/Year 24-HC
Total Nitrate [b]	NL	NA	NA	NL	NA	1/Year 24-HC
Total Nitrite [b]	NL	NA	NA	NL	NA	1/Year 24-HC
Dissolved Lead (µg/l) [a][b]	NL	NA	NA	NL	NA	1/Year Grab
Total Recoverable Zinc (µg/l) [a][b][c][d]	51	NA	NA	51	NA	1/Month Grab
Acute Whole Effluent Toxicity (NOAEC) [e]	NA	NA	100%	NA	NA	1/6 Months 24-HC

* = UNLESS OTHERWISE NOTED; NA = NOT APPLICABLE; NL = NO LIMIT, MONITORING REQUIREMENT ONLY

1/3 Months = In accordance with the following schedule: 1st quarter (January 1 - March 31, **due April 10**); 2nd quarter (April 1 - June 30, **due July 10**); 3rd quarter (July 1 - September 30, **due October 10**); 4th quarter (October 1 - December 31, **due January 10**).

1/6 Months = In accordance with the following schedule: 1st half (January 1 - June 30, **due July 10**); 2nd half (July 1 - December 31, **due January 10**).
1/Year = Between January 1 and December 31, **due January 10 of following year**.

[a] See Part I.D.7. for additional instructions regarding effluent monitoring frequencies.

[b] See Parts I.D.5.a. and I.D.5.b. for quantification levels and reporting requirements, respectively.

[c] Any violation of the maximum daily discharge limitation shall be reported in accordance with Part II., section I. of this permit.

[d] See Part I.C. for Schedule of Compliance. No monitoring or reporting required until after completion of the schedule.

[e] The NOAEC acute WET test shall be reported as = 100% if there exists no significant difference between the 100% effluent and the control test concentrations as determined by hypothesis testing. A test result = 100% is considered a pass (no toxicity demonstrated). If the 100% concentration results in a significant difference from the control, the result shall be reported as <100%, and the test is considered a fail (demonstrated toxicity).

2. There shall be no discharge of floating solids or visible foam in other than trace amounts.

A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

3. During the period beginning with the permit's effective date and lasting until the permit's expiration date, the permittee is authorized to discharge from outfall serial number 901.
Such discharges shall be limited and monitored by the permittee as specified below:

EFFLUENT CHARACTERISTICS	DISCHARGE LIMITATIONS		MONITORING REQUIREMENTS [a]	
	MINIMUM mg/l*	MAXIMUM mg/l*	FREQUENCY	SAMPLE TYPE
Flow (MGD)	NA	NL	1/Year	Estimated [a]
pH (standard units)	6.0	9.0	1/Year	Grab
Total Suspended Solids	NA	NL	1/Year	Grab
TPH	NA	NL	1/Year	Grab
Dissolved Lead (µg/l) [b]	NA	NL	1/Year	Grab
Dissolved Zinc (µg/l)	NA	NL	1/3 Months	Grab

* = UNLESS OTHERWISE NOTED NA = NOT APPLICABLE NL = NO LIMIT, MONITORING REQUIREMENT ONLY

1/3 Months = In accordance with the following schedule: 1st quarter (January 1 - March 31, **due April 10**); 2nd quarter (April 1 - June 30, **due July 10**); 3rd quarter (July 1 - September 30, **due October 10**); 4th quarter (October 1 - December 31, **due January 10**).

1/Year = Between January 1 and December 31, **due January 10 of following year**.

[a] Monitoring shall be conducted within the first 30 minutes of a qualifying precipitation event, starting from the time runoff commingles with outfall 001. In addition to the analytical results, the permittee shall provide: (1) the date and duration (in hours) of the storm event(s) sampled; (2) rainfall measurements or estimates (in inches) of the storm event that generated the sampled runoff; (3) the duration between the storm event sampled and the end of the previous measurable (greater than 0.1 inch rainfall) storm event; and, (4) a monthly log documenting the amount of rainfall received at the facility on a daily basis. See Part I.E.1.a. and b. (General Storm Water Conditions).

[b] Monitoring for lead shall coincide with the use of lead in the production process when possible.

4. The effectiveness of the SWPPP will be evaluated via the required monitoring for all parameters listed for outfall 901 above. Monitoring results showing high values, especially for dissolved lead and dissolved zinc, will not indicate unacceptable values. However, those results will justify the need to reexamine the effectiveness of the SWPPP and any Best Management Practices (BMPs) being utilized for this outfall.
5. There shall be no discharge of floating solids or visible foam in other than trace amounts.

B. WHOLE EFFLUENT TOXICITY (WET) LIMITATION MONITORING REQUIREMENTS FOR OUTFALL 001.

1. The Whole Effluent Toxicity limitation of NOAEC = 100% effluent in Part I.A. is a final limit.
2. The permittee shall conduct semiannual acute toxicity tests using 24-hour flow-proportioned composite samples of final effluent from outfall 001. Effluent samples shall be collected during a non-storm event. When applicable, semiannual samples taken for WET testing purposes shall coincide with Part I.A. chemical sampling. The test species shall be alternated each semiannual period. WET test semiannual periods correspond with the semiannual schedule defined in Part I.A. of this permit. The acute tests to use are:

48 Hour Static Acute Test using *Ceriodaphnia dubia*

48 Hour Static Acute Test using *Pimephales promelas*

These acute tests are to be conducted using a minimum of 4 replicates, with 5 organisms each, for the control and 100% effluent. The NOAEC (No Observed Adverse Effect Concentration) shall be reported as either 100% or <100% (less than 100%). The effluent will be in compliance if the survival of the test organisms in both the control and 100% effluent exposures equals or exceeds 90%. If the survival in the effluent is less than 90% and this value is significantly different from the control survival, as determined by hypothesis testing, the NOAEC is less than 100% and the effluent is not in compliance. Tests in which control survival is less than 90% are not acceptable.

One copy of the toxicity test results shall be submitted with the DMR. Test procedures and reporting shall be in accordance with the WET testing methods cited in 40 CFR 136.3

3. The permit may be modified or revoked and reissued to include pollutant specific limits in lieu of a WET limit should it be demonstrated that toxicity is due to specific parameters. The pollutant specific limits must control the toxicity of the effluent.
4. All semiannual WET test monitoring shall be in accordance with the following schedule:

Semiannual Monitoring Window	Test Report Due Date
January 1 – June 30	July 10
July 1 - December 31	January 10

C. SCHEDULE OF COMPLIANCE

The permittee shall achieve compliance with the final limitations and monitoring requirements for Total Recoverable Zinc as specified in Part I.A. of this permit in accordance with the following schedule:

1. Submit Proposed Plan for Achievement of Compliance or Select a Design Engineer **No later than July 10, 2009**
2. Submit Progress Reports to the DEQ Regional Office **Quarterly after #1, with the first report due October 10, 2009.**
3. Achieve Compliance with Part I.A. Limitations **No later than July 1, 2013**

Quarterly = In accordance with the following schedule: 1st quarter (January 1 - March 31, due April 10); 2nd quarter (April 1 - June 30, due July 10); 3rd quarter (July 1 - September 30, due October 10); 4th quarter (October 1 - December 31, due January 10).

No later than 14 calendar days following a date identified in the above schedule of compliance, the permittee shall submit to the DEQ Regional Office, either a **report of progress** or, in the case of specific actions being required by identified dates, a written notice of compliance or noncompliance. In the latter case, the notice shall include the cause of noncompliance, any remedial actions taken, and the probability of meeting the next scheduled requirement.

D. OTHER REQUIREMENTS OR SPECIAL CONDITIONS

1. Water Quality Criteria Reopener

Should effluent monitoring indicate the need for any water quality-based limitation, this permit may be modified or, alternatively, revoked and reissued to incorporate appropriate limitations.

2. Licensed Wastewater Operator Requirement

No licensed wastewater works operator is required at this permitted facility.

3. Operations and Maintenance (O & M) Manual

The permittee shall review the existing O & M Manual and notify the DEQ Regional Office, in writing, that it is still accurate and complete. If the O & M Manual is no longer accurate and complete, a revised O & M Manual shall be submitted for approval to the DEQ Regional Office. The permittee shall maintain an accurate, approved O & M Manual for the treatment works and operate the treatment works in accordance with the approved O & M manual. This manual shall include, but not necessarily be limited to, the following items, as appropriate:

- a. Treatment works design and operation, routine preventative maintenance of units within the treatment system, critical spare parts inventory and record keeping;
- b. Procedures for measuring and recording the duration and volume of treated wastewater discharged;

- c. Techniques to be employed in the collection, preservation and analysis of effluent samples;
- d. Procedures for handling, storing, and disposing of all wastes, fluids, and pollutants characterized in Part I.C.6. (Materials Handling and Storage) that will prevent these materials from reaching state waters; and,
- e. A plan for the management and/or disposal of waste solids and residues.
- f. Discussion of Best Management Practices.

Any changes in the practices and procedures followed by the permittee shall be documented and submitted for approval within 90 days of the effective date of the changes. Upon approval of the submitted manual changes, the revised manual becomes an enforceable part of this permit. Noncompliance with the O & M Manual shall be deemed a violation of the permit.

Letter/Revised Manual Due: No later than April 10, 2009

4 Notification Levels

The permittee shall notify the Department as soon as they know or have reason to believe:

- a. That any activity has occurred or will occur which would result in the discharge, on a routine or frequent basis, of any toxic pollutant which is not limited in this permit, if that discharge will exceed the highest of the following notification levels:
 - (1) One hundred micrograms per liter (100 ug/l);
 - (2) Two hundred micrograms per liter (200 ug/l) for acrolein and acrylonitrile; five hundred micrograms per liter (500 ug/l) for 2,4-dinitrophenol and for 2-methyl-4,6-dinitrophenol; and one milligram per liter (1 mg/l) for antimony;
 - (3) Five (5) times the maximum concentration value reported for that pollutant in the permit application; or
 - (4) The level established by the Board.
- b. That any activity has occurred or will occur which would result in any discharge, on a non-routine or infrequent basis, of a toxic pollutant which is not limited in this permit, if that discharge will exceed the highest of the following notification levels:
 - (1) Five hundred micrograms per liter (500 ug/l);
 - (2) One milligram per liter (1 mg/l) for antimony;
 - (3) Ten (10) times the maximum concentration value reported for that pollutant in the permit application.
 - (4) The level established by the Board.

5. Compliance Reporting Under Part I.A.

a. Quantification Levels

- (1) Maximum quantification levels (QL) shall be as follows:

<u>Effluent Characteristic</u>	<u>Quantification Level</u>
Total Boron	0.10 mg/l
Chlorine	0.10 mg/l
Total Nitrogen	0.50 mg/l
Total Nitrate	0.50 mg/l

Total Nitrite	0.50 mg/l
Lead	1.0 µg/l
Zinc	20.0 µg/l

- (2) The permittee may use any approved method which has a QL equal to or lower than the QL listed in a.(1) above. The QL is defined as the lowest concentration used to calibrate a measurement system in accordance with the procedures published for the method.
- (3) It is the responsibility of the permittee to ensure that proper QA/QC protocols are followed during the sampling and analytical procedures. QA/QC information shall be documented to confirm that appropriate analytical procedures have been used and the required QLs have been attained.
- (4) An appropriate analytic method for metals shall be selected from the following list of EPA methods, or any approved method in 40 CFR Part 136, which will achieve a QL that is less than or equal to the QL specified in a.(1) above.

<u>Metal</u>	<u>Analytical Methods</u>
Lead	239.1; 200.7; 239.2; 200.9; 200.8; 1638; 1637; 1640
Zinc	289.1; 200.7; 1638; 1639; 200.8; 289.2

b. Reporting

- (1) **Monthly Average** -- Compliance with the monthly average limitations and/or reporting requirements for the parameters listed in a.(1) above shall be determined as follows: All concentration data below the test method QL shall be treated as zeros. All concentration data equal to or above the QL shall be treated as reported. An arithmetic average shall be calculated using all reported data for the month, including the defined zeros. This arithmetic average shall be reported on the DMR as calculated. If all data are below the QL, then the average shall be reported as "<QL". If reporting for quantity is required on the DMR and the calculated concentration is <QL, then report "<QL" for the quantity; otherwise, use the calculated concentration to calculate the quantity.
- (2) **Daily maximum** -- Compliance with the daily maximum limitations and/or reporting requirements for the parameters listed in a.(1) above shall be determined as follows: All concentration data below the test method QL shall be treated as zeros. All concentration data equal to or above the QL shall be treated as reported. An arithmetic average of the values shall be calculated using all reported data, including the defined zeros, collected within each day during the reporting month. The maximum value of these daily averages thus determined shall be reported on the DMR as the Daily Maximum. If all data for each daily maximum are below the QL, then the average shall be reported as <[QL]. If reporting for quantity is required on the DMR and the calculated concentration for each daily average is <QL, then report "<QL" for the quantity; otherwise, use the calculated maximum value of the daily averages to calculate the quantity.
- (3) Any single datum required shall be reported as "<QL" if it is less than the test method QL listed in a.(1) above. Otherwise, the numerical value shall be reported.

- (4) Monitoring results reported on the DMR shall be reported to the accuracy of the test, which must be capable of at least the same number of significant digits as the permit limit for the given parameter. Rounding the results to the number of significant digits in the permit, where the test method is sensitive enough to report more, is not acceptable and shall not be allowed. If there is not a method allowed by the permit that is accurate enough to measure two significant digits below the value of 1.0, it shall be the permittee's responsibility to provide documentation for DEQ approval demonstrating that only one significant figure can accurately be reported.

6. Materials Handling and Storage

Any and all product, materials, industrial wastes, and/or other wastes resulting from the purchase, sale, mining, extraction, transport, preparation and/or storage of raw or intermediate materials, final product, by-product or wastes, shall be handled, disposed of and/or stored in such a manner so as not to permit a discharge of such product, materials, industrial wastes and/or other wastes to State waters, except as expressly authorized.

7. Effluent Monitoring Frequencies

If the facility permitted herein is issued a Notice of Violation for any of the parameters listed below, then the following effluent monitoring frequencies shall become effective upon written notice from DEQ and remain in effect until permit expiration date.

<u>Effluent Parameter</u>	<u>Frequency</u>
TSS	1/Month
TPH	1/Month
Total Iron	1/Month
Total Lead	1/Month

No other effluent limitations or monitoring requirements are affected by this special condition.

8. Cooling Water and Boiler Additives

- a. If at any time during the life of this permit, the permittee decides to treat any non-contact cooling water unit(s) and/or boiler system(s) with chemical additives [other than those additives currently in use and on file with the DEQ Regional Office], the following requirements shall be satisfied.

At least thirty (30) days prior to implementing any chemical addition to the cooling water and/or boiler equipment, the permittee shall notify the DEQ Regional Office, in writing, of the following:

- (1) The chemical additives to be employed and their purpose. Provide to the staff for review, a Material Safety Data Sheet (MSDS) for each proposed additive;
 - (2) Schedule of additive usage; and,
 - (3) Wastewater treatment and/or retention to be provided during the use of additives.
- b. Should the addition of treatment chemicals significantly alter the characteristics of the effluent from the cooling water and/or boiler unit(s) or their usage becomes persistent or continuous,

this permit shall be modified or, alternatively, revoked and reissued to include appropriate limitations or conditions.

9. Minimum Freeboard

The permittee shall ensure that all basins or lagoons maintain a minimum freeboard of one (1) foot at all times. Should the one-foot freeboard not be maintained, the permittee shall immediately notify the DEQ Regional Office, describing the problem and corrective measures taken to correct the problem. Within 5 days of the notification, the permittee shall submit a written statement of explanation and corrective measures taken.

10. Hydrostatic Testing

The permittee shall obtain approval from the DEQ Regional Office forty-eight (48) hours in advance of any discharge resulting from hydrostatic testing. The conditions of approval will be contingent on the volume and duration of the proposed discharge, the nature of the residual product. Sampling will be required for characterization of the "first flush", as a minimum.

Report results with the DMR for the month in which sampling and hydrostatic testing occurred.

11. Permit Application Requirement

In accordance with Part II. M. of this permit, a new and complete permit application shall be submitted for the reissuance of this permit.

Application Due: No later than September 11, 2013

E. TOXICS MANAGEMENT PROGRAM

1. Biological Monitoring:

- a. In accordance with the schedule in 4. below, the permittee shall conduct chronic toxicity tests for the duration of the permit. The permittee should collect 24-hour flow-proportioned composite samples of final effluent from outfall 001. Effluent samples shall be collected during a non-storm event. When applicable, quarterly samples taken for WET testing purposes shall coincide with Part I.A. chemical sampling. The test species shall be alternated each year. The chronic tests to use are:

Chronic 3-Brood Static Renewal Survival and Reproduction Test using *Ceriodaphnia dubia*
Chronic 7-Day Static Renewal Survival and Growth Test using *Pimephales promelas*

These chronic tests shall be conducted in such a manner and at sufficient dilutions (minimum of five dilutions, derived geometrically) to determine the "No Observed Effect Concentration" (NOEC) for survival and reproduction or growth. Results which cannot be determined (i.e., a "less than" NOEC value) are not acceptable, and a retest will have to be performed. Express the test NOEC as TU_c (Chronic Toxic Units), by dividing 100/NOEC for DMR reporting. Report the LC₅₀ at 48 hours and the IC₂₅ with the NOEC's in the test report.

The permittee may provide additional samples to address data variability during the period of initial data generation. These data shall be reported and may be included in the evaluation of

effluent toxicity. Test procedures and reporting shall be in accordance with the WET testing methods cited in 40 CFR 136.3

- b. The test dilutions should be able to determine compliance with the following endpoints:
 - (1) Chronic NOEC of 99% equivalent to a TU_c of 1.01
 - c. The test data will be evaluated by WLA.EXE for reasonable potential at the conclusion of the test period. The data may be evaluated sooner if requested by the permittee, or if toxicity has been noted. Should evaluation of the data indicate that a limit is needed, a WET limit and compliance schedule will be required and the toxicity tests of 1.a. may be discontinued.
2. Wet Weather Biological Monitoring (Outfall 901):
- a. In accordance with the schedule in 4. below, the permittee shall conduct wet weather acute toxicity tests for the duration of the permit. Effluent samples shall be collected as in Part I.E.1.a. When possible, samples taken for outfall 901 toxicity testing purposes shall coincide with Part I.A. chemical sampling. The acute test shall be a 48 Hour Static Acute test using *Ceriodaphnia dubia*. These acute tests shall be performed with a minimum of 5 dilutions, derived geometrically, for calculation of a valid LC_{50} . Express the results as TU_a (Acute Toxic Units) by dividing $100/LC_{50}$ for reporting.
 - b. Should any wet weather acute test result in a calculable LC_{50} value, the permittee shall review the facility's Stormwater Pollution Prevention Plan and implement any necessary facility initiatives. A second wet weather acute toxicity test shall be conducted within six months from the test date which resulted in the calculable LC_{50} value.
 - c. The permittee shall submit the following information with the results of the toxicity tests:
 - (1) An actual measurement or estimate of the effluent flow at the time of sampling.
 - (2) The time the storm event began, the time the effluent was sampled, and the duration of the storm event.
 - (3) The duration between the storm event sampled and the end of the previous storm event.
3. The permittee may provide additional samples to address data variability. These data shall be reported and may be included in the evaluation of effluent toxicity. Test procedures and reporting shall be in accordance with the WET testing methods cited in 40 CFR 136.3
4. Reporting Schedule:

The permittee shall report the results on the DMR and supply 1 copy of the toxicity test reports specified in this Toxics Management Program in accordance with the following schedule:

Test Period	Monitoring Window	Test Report Due Date
1st	January 1 – December 31, 2009	January 20, 2010
2nd	January 1 – December 31, 2010	January 20, 2011
3rd	January 1 – December 31, 2011	January 20, 2012
4th	January 1 – December 31, 2012	January 20, 2013
5th	January 1 – Application Due date 2013	With VPDES application

F. STORM WATER MANAGEMENT CONDITIONS**1. General Storm Water Conditions****a. Sample Type**

For all storm water monitoring required in Part I.A. or other applicable sections of this permit, a minimum of one grab sample shall be taken. Unless otherwise specified, all such samples shall be collected from the discharge resulting from a storm event that is greater than 0.1 inches in magnitude and that occurs at least 72 hours from the previously measurable (greater than 0.1 inch rainfall) storm event. The required 72-hour storm event interval is waived where the preceding measurable storm event did not result in a measurable discharge from the facility. The required 72-hour storm event interval may also be waived where the permittee documents that less than a 72-hour interval is representative for local storm events during the season when sampling is being conducted. **The grab sample shall be taken during the first 30 minutes of the discharge, starting from the time it commingles with outfall 001. If the collection of a grab sample during the first 30 minutes is impracticable, a grab sample can be taken during the first hour of the discharge, and the permittee shall submit with the monitoring report a description of why a grab sample during the first 30 minutes was impracticable.** If storm water discharges associated with industrial activity commingle with process or non-process water, then where practicable permittees must attempt to sample the storm water discharge before it mixes with the non-storm water discharge.

b. Recording of Results

For each measurement or sample taken pursuant to the storm event monitoring requirements of this permit, the permittee shall record and report with the Discharge Monitoring Reports (DMRs) the following:

- (1) The date and duration (in hours) of the storm event(s) sampled;
- (2) The rainfall measurements or estimates (in inches) of the storm event that generated the sampled runoff;
- (3) The duration between the storm event sampled and the end of the previous measurable (greater than 0.1 inch rainfall) storm event; and,

In addition, the permittee shall maintain a monthly log documenting the amount of rainfall received at this facility on a daily basis. A summarization of this information shall also be submitted with the DMRs.

In the event that sampling of an outfall is required but is not possible due to the absence of effluent flow during a particular testing period, the permittee shall provide written notification to DEQ with the DMRs for the month following the period in which samples were to be collected.

c. Sampling Waivers

When a permittee is unable to collect storm water samples required in Part I.A. or other applicable sections of this permit within a specified sampling period due to adverse climatic conditions, the permittee shall collect a substitute sample from a separate qualifying event in

the next period and submit these data along with the data for the routine sample in that period. Adverse weather conditions that may prohibit the collection of samples include weather conditions that create dangerous conditions for personnel (such as local flooding, high winds, hurricanes, tornadoes, electrical storms, etc.) or otherwise make the collection of a sample impracticable (drought, extended frozen conditions, etc.). This sampling waiver for adverse climatic conditions applies to the quarterly visual examinations (2.e. below) as well.

d. Representative Discharges

When a facility has two or more outfalls that, based on a consideration of industrial activities, significant materials and management practices and activities within the area drained by the outfalls, the permittee reasonably believes substantially identical effluents are discharged, the permittee may test the effluent of one of such outfalls and report that the quantitative data also apply to the substantially identical outfall(s) provided that: (1) the representative outfall determination has been approved by DEQ prior to data submittal; and, (2) the permittee includes in the SWPPP a description of the location of the outfalls and explains in detail why the outfalls are expected to discharge substantially identical effluents. This sampling waiver for substantially identical discharges applies to the quarterly visual examinations (2.e. below) as well.

e. Quarterly Visual Examination of Storm Water Quality

The permittee must perform and document a quarterly visual examination of a storm water discharge associated with industrial activity from each outfall, except discharges exempted below. The examination(s) must be made at least once in each of the following three-month periods: January through March, April through June, July through September, and October through December. The visual examination must be made during daylight hours (e.g., normal working hours). If no storm event resulted in runoff from the facility during a monitoring quarter, the permittee is excused from visual examinations for that quarter provided that documentation is included with the monitoring records indicating that no runoff occurred. The documentation must be signed and certified in accordance with Part II.K. of this permit.

- (1) Visual examinations must be made of samples collected within the first 30 minutes (or as soon thereafter as practical, but not to exceed 1 hour) of when the runoff or snowmelt begins discharging from the facility. The examination must document observations of color, odor, clarity, floating solids, settled solids, suspended solids, foam, oil sheen, and other obvious indicators of storm water pollution. The examination must be conducted in a well-lit area. No analytical tests are required to be performed on the samples. All samples (except snow melt samples) must be collected from the discharge resulting from a storm event that is greater than 0.1 inches in magnitude and that occurs at least 72 hours from the previous measurable (greater than 0.1 inch rainfall) storm event. The 72-hour storm interval is waived when the preceding measurable storm did not yield a measurable discharge or if the permittee is able to document that less than a 72-hour interval is representative for local storm events during the sampling period. Where practicable, the same individual should carry out the collection and examination of discharges for the entire permit term. If no qualifying storm event resulted in runoff from the facility during a monitoring quarter, the permittee is excused from visual examinations for that quarter provided that documentation is included with the monitoring records indicating that no qualifying storm event occurred that resulted in storm water runoff during the quarter. The documentation must be signed and certified in accordance with Part II.K.

- (2) The visual examination reports must be maintained onsite with the SWPPP. The report must include the outfall location, the examination date and time, examination personnel, the nature of the discharge (i.e., runoff or snow melt), visual quality of the storm water discharge (including observations of color, odor, clarity, floating solids, settled solids, suspended solids, foam, oil sheen, and other obvious indicators of storm water pollution), and probable sources of any observed storm water contamination.

f. Allowable Non-storm Water Discharges.

- (1) The following non-storm water discharges are authorized by this permit provided the non-storm water component of the discharge is in compliance with paragraph f.(2) below.
 - (a) Discharges from fire fighting activities;
 - (b) Fire hydrant flushings;
 - (c) Potable water, including water line flushings;
 - (d) Uncontaminated air conditioning or compressor condensate;
 - (e) Irrigation drainage;
 - (f) Landscape watering provided all pesticides, herbicides, and fertilizer have been applied in accordance with manufacturer's instructions;
 - (g) Pavement wash waters where no detergents are used and no spills or leaks of toxic or hazardous materials have occurred (unless all spilled material has been removed);
 - (h) Routine external building wash down which does not use detergents;
 - (i) Uncontaminated ground water or spring water;
 - (j) Foundation or footing drains where flows are not contaminated with process materials such as solvents;
 - (k) Incidental windblown mist from cooling towers that collects on rooftops or adjacent portions of the facility, but not intentional discharges from the cooling tower (e.g., "piped" cooling tower blowdown or drains).
- (2) Except for flows from fire fighting activities, the SWPPP must include:
 - (a) Identification of each allowable non-storm water source;
 - (b) The location where the non-storm water is likely to be discharged; and,
 - (c) Descriptions of any best management practices (BMPs) that are being used for each source.
- (3) If mist blown from cooling towers is included as one of the allowable non-storm water discharges, the facility must specifically evaluate the potential for the discharges to be contaminated by chemicals used in the cooling tower and must select and implement BMPs to control such discharges so that the levels of cooling tower chemicals in the discharges would not cause or contribute to a violation of an applicable water quality standard.

g. Releases of Hazardous Substances or Oil in Excess of Reportable Quantities

The discharge of hazardous substances or oil in the storm water discharge(s) from the facility shall be prevented or minimized in accordance with the SWPPP for the facility. This permit does not authorize the discharge of hazardous substances or oil resulting from an onsite spill. This permit does not relieve the permittee of the reporting requirements of 40 CFR 110, 40

CFR 117 and 40 CFR 302 or § 62.1-44.34:19 of the Code of Virginia. Where a release containing a hazardous substance or oil in an amount equal to or in excess of a reportable quantity established under either 40 CFR 110, 40 CFR 117 or 40 CFR 302 occurs during a 24-hour period, the permittee is required to notify DEQ in accordance with the requirements of Part II.G. of this permit as soon as he or she has knowledge of the discharge. Where a release enters a municipal separate storm sewer system (MS4), the permittee shall also notify the owner of the MS4. The SWPPP required by this permit must be reviewed to identify measures to prevent the reoccurrence of such releases and to respond to such releases, and the plan must be modified where appropriate.

h. Additional Requirements for Salt Storage

Storage piles of salt used for deicing or other commercial or industrial purposes must be enclosed or covered to prevent exposure to precipitation (except for exposure resulting from adding or removing materials from the pile). Piles do not need to be enclosed or covered where storm water from the pile is not discharged to state waters or the discharges from the piles are authorized under another permit.

2. Storm Water Pollution Prevention Plan (SWPPP)

A SWPPP must be developed for this facility. The plan, and any modifications, shall be prepared in accordance with good engineering practices. The plan shall identify potential sources of pollution that may reasonably be expected to affect the quality of storm water discharges from the facility. In addition, the plan shall describe and ensure the implementation of practices that are to be used to reduce the pollutants in storm water discharges associated with industrial activity at the facility and assure compliance with the terms and conditions of this permit. The permittee must implement the provisions of the SWPPP as a condition of this permit.

The SWPPP requirements of this permit may be fulfilled by incorporating by reference other plans or documents such as an erosion and sediment control (ESC) plan, a spill prevention control and countermeasure (SPCC) plan developed for the facility under Section 311 of the Clean Water Act or BMP programs otherwise required for the facility provided that the incorporated plan meets or exceeds the plan requirements of section b. below (Contents of the Plan) of this permit. If an ESC plan is being incorporated by reference, it shall have been approved by the locality in which the activity is to occur or by another appropriate plan approving authority authorized under the Virginia Erosion and Sediment Control Regulation 4 VAC 50-30-10 et seq. All plans incorporated by reference into the SWPPP become enforceable under this permit.

a. Deadlines for Plan Preparation and Compliance

A SWPPP for the facility was required to be developed and implemented under the previous permit. The existing SWPPP shall be reviewed and modified, as appropriate, to conform to the requirements of this section.

Verify Review of Plan: No later than April 10, 2009

b. Contents of the Plan

The contents of the SWPPP shall comply with the requirements listed below and those in section 3. below (Facility-specific Storm Water Conditions) of this permit. These requirements are cumulative. The plan shall include, at a minimum, the following items.

(1) Pollution Prevention Team

The SWPPP shall identify the staff individuals by name or title that comprise the facility's SWPPP team. The pollution prevention team is responsible for assisting the facility or plant manager in developing, implementing, maintaining and revising the facility's SWPPP. Responsibilities of each staff individual on the team must be listed.

(2) Site Description

The SWPPP shall include the following:

(a) Activities at the Facility

A description of the nature of the industrial activities at the facility;

(b) General Location Map

A general location map (e.g., USGS quadrangle or other map) with enough detail to identify the location of the facility and the receiving waters within one mile of the facility;

(c) Site Map

A site map identifying the following:

- (i) Directions of storm water flow (e.g., use arrows to show which ways storm water will flow);
- (ii) Locations of all existing structural BMPs;
- (iii) Locations of all surface water bodies;
- (iv) Locations of potential pollutant sources identified in paragraph b.(3) below (Summary of Potential Pollutant Sources) and where significant materials are exposed to precipitation;
- (v) Locations where major spills or leaks identified in paragraph b.(4) below (Spills and Leaks) have occurred;
- (vi) Locations of the following activities where such activities are exposed to precipitation: fueling stations; vehicle and equipment maintenance and/or cleaning areas; loading/unloading areas; locations used for the treatment, storage or disposal of wastes and liquid storage tanks;
- (vii) Locations of storm water outfalls and an approximate outline of the area draining to each outfall;
- (viii) Location and description of non-storm water discharges;
- (ix) Locations of the following activities where such activities are exposed to precipitation: processing and storage areas; access roads; rail cars and tracks; the location of transfer of substance in bulk; and machinery; and,
- (x) Location and source of runoff from adjacent property containing significant quantities of pollutants of concern to the facility (the permittee may include an evaluation of how the quality of the storm water running onto the facility impacts the facility's storm water discharges).

(d) Receiving Waters and Wetlands

The name of the nearest receiving water(s), including intermittent streams, dry sloughs, arroyos and the areal extent and description of wetland sites that may receive discharges from the facility.

(3) Summary of Potential Pollutant Sources

The SWPPP shall identify each separate area at the facility where industrial materials or activities are exposed to storm water. Industrial materials or activities include, but are not limited to: material handling equipment or activities, industrial machinery, raw materials, intermediate products, byproducts, final products, or waste products. Material handling activities include the storage, loading and unloading, transportation, or conveyance of any raw material, intermediate product, final product or waste product. For each, separate area identified, the description must include:

- (a) A list of the activities in the area (e.g., material storage, equipment fueling and cleaning, cutting steel beams); and,
- (b) A list of the associated pollutant(s) or pollutant parameter(s) (e.g., crankcase oil, iron, biochemical oxygen demand, pH, etc.) for each activity. The pollutant list must include all significant materials that have been handled, treated, stored or disposed in a manner to allow exposure to storm water between the time of three years before being covered under this permit and the present.

(4) Spills and Leaks

The SWPPP must clearly identify areas where potential spills and leaks that can contribute pollutants to storm water discharges can occur, and their accompanying drainage points. For areas that are exposed to precipitation or that otherwise drain to a storm water conveyance at the facility, the plan must include a list of significant spills and leaks of toxic or hazardous pollutants that occurred during the three-year period prior to being covered under this permit. The list must be updated if significant spills or leaks occur in exposed areas of the facility during the term of this permit. Significant spills and leaks include releases of oil or hazardous substances in excess of reportable quantities, and may also include releases of oil or hazardous substances that are not in excess of reporting requirements.

(5) Sampling Data

The SWPPP must include a summary of existing discharge sampling data taken at the facility, and must also include a summary of sampling data collected during the term of this permit.

(6) Storm Water Controls

The SWPPP shall include a description of storm water management controls appropriate for the facility. The description of controls shall address the following minimum components:

- (a) Description of Existing and Planned BMPs

The plan shall describe the type and location of existing nonstructural and structural BMPs selected for each of the areas where industrial materials or activities are exposed to storm water. All the areas identified in paragraph b.(3) above (Summary of Potential Pollutant Sources) should have a BMP(s) identified for the area's discharges. For areas where BMPs are not currently in place, include a description of appropriate BMPs that will be used to control pollutants in storm water discharges. Selection of BMPs should take into consideration:

- (i) The quantity and nature of the pollutants, and their potential to impact the water quality of receiving waters;
- (ii) Opportunities to combine the dual purposes of water quality protection and local flood control benefits, including physical impacts of high flows on streams (e.g., bank erosion, impairment of aquatic habitat, etc.);
- (iii) Opportunities to offset the impact of impervious areas of the facility on ground water recharge and base flows in local streams, taking into account the potential for ground water contamination.

(b) BMP Types to be Considered

The permittee must consider the following types of structural, nonstructural and other BMPs for implementation at the facility. The SWPPP shall describe how each BMP is, or will be, implemented. If this requirement was fulfilled with the area-specific BMPs identified in paragraph b.(6)(a) above (Description of Existing and Planned BMPs), then the previous description is sufficient. However, many of the following BMPs may be more generalized or non-site-specific and therefore not previously considered. If the permittee determines that any of these BMPs are not appropriate for the facility, an explanation of why they are not appropriate shall be included in the plan. The BMP examples listed below are not intended to be an exclusive list of BMPs that may be used. The permittee is encouraged to keep abreast of new BMPs or new applications of existing BMPs to find the most cost effective means of permit compliance for the facility. If BMPs are being used or planned at the facility that are not listed here (e.g., replacing a chemical with a less toxic alternative, adopting a new or innovative BMP, etc.), descriptions of them shall be included in this section of the SWPPP.

(i) Nonstructural BMPs

i.- Good Housekeeping

The permittee must keep all exposed areas of the facility in a clean, orderly manner where such exposed areas could contribute pollutants to storm water discharges. Common problem areas include around trash containers, storage areas and loading docks. Measures must also include a schedule for regular pickup and disposal of garbage and waste materials; routine inspections for leaks and conditions of drums, tanks and containers.

ii.- Minimizing Exposure

Where practicable, industrial materials and activities should be protected by a storm resistant shelter to prevent exposure to rain, snow, snowmelt, or runoff. Note: Eliminating exposure at all industrial areas may make the facility eligible for the "Conditional Exclusion for No Exposure" provision of 9 VAC 25-31-120 F., thereby eliminating the need for the portion of this permit addressing the storm water associated with industrial activity.

iii.- Preventive Maintenance

The permittee must have a preventive maintenance program that includes timely inspection and maintenance of storm water management devices (e.g., cleaning oil/water separators, catch basins), as well as inspection, testing, maintenance and repairing of facility equipment and systems to avoid breakdowns or failures that could result in discharges of pollutants to surface waters.

iv.- Spill Prevention and Response Procedures

The plan must describe the procedures that will be followed for cleaning up spills or leaks. The procedures and necessary spill response equipment must be made available to those employees who may cause or detect a spill or leak. Where appropriate, the plan must include an explanation of existing or planned material handling procedures, storage requirements, secondary containment, and equipment (e.g., diversion valves), that are intended to minimize spills or leaks at the facility. Measures for cleaning up hazardous material spills or leaks must be consistent with applicable RCRA regulations at 40 CFR Part 264 and 40 CFR Part 265.

v.- Routine Facility Inspections

Facility personnel who are familiar with the industrial activity, the BMPs and the SWPPP shall be identified to inspect all areas of the facility where industrial materials or activities are exposed to storm water. These inspections are in addition to, or as part of, the comprehensive site evaluation required under section e. below (Comprehensive Site Compliance Inspections), and must include an evaluation of the existing storm water BMPs. The inspection frequency shall be specified in the plan based upon a consideration of the level of industrial activity at the facility, but shall be a minimum of quarterly unless more frequent intervals are specified elsewhere in the permit. Any deficiencies in the implementation of the SWPPP that are found must be corrected as soon as practicable, but not later than within 14

days of the inspection, unless permission for a later date is granted in writing by DEQ. The results of the inspections must be documented in the SWPPP, along with any corrective actions that were taken in response to any deficiencies or opportunities for improvement that were identified.

vi.- Employee Training

The SWPPP must describe the storm water employee training program for the facility. The description should include the topics to be covered, such as spill response, good housekeeping, and material management practices, and must identify periodic dates for such training (e.g., every six months during the months of July and January). Employee training must be provided for all employees that work in areas where industrial materials or activities are exposed to storm water, and for employees that are responsible for implementing activities identified in the SWPPP (e.g., inspectors, maintenance people). The training should inform employees of the components and goals of the SWPPP.

(ii) Structural BMPs

i.- Sediment and Erosion Control

The SWPPP shall identify areas at the facility that, due to topography, land disturbance (e.g., construction), or other factors, have a potential for significant soil erosion. The plan must identify structural, vegetative, and/or stabilization BMPs that will be implemented to limit erosion.

ii.- Management of Runoff

The SWPPP shall describe the traditional storm water management practices [permanent structural BMPs other than those which control the generation or source(s) of pollutants] that currently exist or that are planned for the facility. These types of BMPs are typically used to divert, infiltrate, reuse, or otherwise reduce pollutants in storm water discharges from the site. The plan shall provide that all measures that the permittee determines to be reasonable and appropriate, or are required by a state or local authority shall be implemented and maintained. Factors for the permittee to consider when selecting appropriate BMPs should include: the industrial materials and activities that are exposed to storm water, and the associated pollutant potential of those materials and activities; and, the beneficial and potential detrimental effects on surface water quality, ground water quality, receiving water base flow (dry weather stream flow), and physical integrity of receiving waters.

Structural measures should be placed on upland soils, avoiding wetlands and floodplains, if possible. Structural BMPs may require a separate permit under § 404 of the CWA before installation begins.

iii.- Example BMPs

BMPs that could be used include but are not limited to: storm water detention structures (including wet ponds); storm water retention structures; flow attenuation by use of open vegetated swales and natural depressions; infiltration of runoff on-site; and sequential systems (which combine several practices).

iv.- Other controls

Off-site vehicle tracking of raw, final, or waste materials or sediments, and the generation of dust must be minimized. Tracking or blowing of raw, final, or waste materials from areas of no exposure to exposed areas must be minimized. Velocity dissipation devices (or equivalent measures) must be placed at discharge locations and along the length of any outfall channel if they are necessary to provide a non-erosive flow velocity from the structure to a water course.

c. Maintenance

All BMPs identified in the SWPPP must be maintained in effective operating condition. If site inspections required by paragraph b.(6)(b)(i)v.- above (Routine Facility Inspections) and/or section d. below (Comprehensive Site Compliance Inspections) identify BMPs that are not operating effectively, maintenance must be performed before the next anticipated storm event, or as necessary to maintain the continued effectiveness of storm water controls. If maintenance prior to the next anticipated storm event is impracticable, maintenance must be scheduled and accomplished as soon as practicable. In the case of nonstructural BMPs, the effectiveness of the BMP must be maintained by appropriate means (e.g., spill response supplies available and personnel trained, etc.).

d. Comprehensive Site Compliance Evaluation

The permittee shall conduct facility inspections (site compliance evaluations) at least once a year. The inspections must be done by qualified personnel, and may be either facility employees or outside constituents hired by the facility. The inspectors must be familiar with the industrial activity, the BMPs and the SWPPP and must possess the skills to assess conditions at the facility that could impact storm water quality, and to assess the effectiveness of the BMPs that have been chosen to control the quality of the storm water discharges. If more frequent inspections are conducted, the SWPPP must specify the frequency of inspections.

(1) Scope of the Compliance Evaluation

Inspections must include all areas where industrial materials or activities are exposed to storm water, as identified in paragraph b.(3) above (Summary of Potential Pollutant Sources) and areas where spills and leaks have occurred within the past 3 years. Inspectors should look for:

- (a) Industrial materials, residue or trash on the ground that could contaminate or be washed away in storm water;
- (b) Leaks or spills from industrial equipment, drums, barrels, tanks or similar containers;
- (c) Off-site tracking of industrial materials or sediment where vehicles enter or exit the site;
- (d) Tracking or blowing of raw, final, or waste materials from areas of no exposure to exposed areas; and,
- (e) Evidence of, or the potential for, pollutants entering the drainage system.

Results of both visual and any analytical monitoring done during the year must be taken into consideration during the evaluation. Storm water BMPs identified in the SWPPP must be observed to ensure that they are operating correctly. Where discharge locations or points are accessible, they must be inspected to see whether BMPs are effective in preventing significant impacts to receiving waters. Where discharge locations are inaccessible, nearby downstream locations must be inspected if possible.

- (2) Based on the results of the inspection, the SWPPP shall be modified as necessary [e.g., show additional controls on the map required by item (c) under paragraph b.(2) above (Site Description); revise the description of controls required by paragraph b.(6) above (Storm Water Controls) to include additional or modified BMPs designed to correct problems identified]. Revisions to the SWPPP shall be completed within two weeks following the inspection, unless permission for a later date is granted in writing by DEQ. If existing BMPs need to be modified or if additional BMPs are necessary, implementation must be completed before the next anticipated storm event, if practicable, but not more than 12 weeks after completion of the comprehensive site evaluation, unless permission for a later date is granted in writing by DEQ.

- (3) Compliance Evaluation Report

A report summarizing the scope of the inspection, name(s) of personnel making the inspection, the date(s) of the inspection, and major observations relating to the implementation of the SWPPP, and actions taken in accordance with paragraph e.(2) above shall be made and retained as part of the SWPPP for at least three years from the date of the inspection. Major observations should include: the location(s) of discharges of pollutants from the site; location(s) of BMPs that need to be maintained; location(s) of BMPs that failed to operate as designed or proved inadequate for a particular location; and location(s) where additional BMPs are needed that did not exist at the time of inspection. The report shall identify any incidents of noncompliance. Where a report does not identify any incidents of noncompliance, the report shall contain a certification that the facility is in compliance with the SWPPP and this permit. The report shall be signed in accordance with Part II K.

- (4) Where compliance evaluation schedules overlap with routine inspections required under paragraph b.(6)(b)(i)v.- above (Routine Facility Inspections), the annual compliance evaluation may be used as one of the routine inspections.

e. Signature and Plan Review

- (1) Signature/Location

The plan shall be signed in accordance with Part II K, and retained on-site at the facility in accordance with Part II B 2.

- (2) Availability

The permittee shall make the SWPPP, annual site compliance inspection report, and other information available to DEQ upon request.

- (3) Required modifications

DEQ may notify the permittee at any time that the plan does not meet one or more of the minimum requirements of this permit. The notification shall identify those provisions of the permit that are not being met, as well as the required modifications. The permittee shall make the required changes to the SWPPP within 60 days of receipt of such notification, unless permission for a later date is granted in writing by DEQ and shall submit a written certification to DEQ that the requested changes have been made.

f. Maintaining an Updated SWPPP

The permittee shall amend the SWPPP whenever:

- (1) There is a change in design, construction, operation, or maintenance at the facility that has a significant effect on the discharge, or the potential for the discharge, of pollutants from the facility;
- (2) During inspections, monitoring, or investigations by facility personnel or by local, state, or federal officials, it is determined that the SWPPP is ineffective in eliminating or significantly minimizing pollutants from sources identified under paragraph b.(3) above (Summary of Potential Pollutant Sources), or is otherwise not achieving the general objectives of controlling pollutants in discharges from the facility.

g. Special Pollution Prevention Plan Requirements

- (1) Additional Requirements for Storm Water Discharges Associated With Industrial Activity That Discharge Into or Through Municipal Separate Storm Sewer Systems.
 - (a) In addition to the applicable requirements of this permit, facilities covered by this permit must comply with applicable requirements in municipal storm water management programs developed under VPDES permits issued for the discharge of the municipal separate storm sewer system that receives the facility's discharge, provided the permittee has been notified of such conditions.

- (b) Permittees that discharge storm water associated with industrial activity through a municipal separate storm sewer system shall make plans available to the municipal operator of the system upon request.

(2) Additional Requirements for Storm Water Discharges Associated with Industrial Activity from Facilities Subject to EPCRA § 313 Reporting Requirements

Any potential pollutant sources for which the facility has reporting requirements under EPCRA 313 must be identified in the SWPPP in paragraph b.(3) above (Summary of Potential Pollutant Sources). Note: this additional requirement is only applicable if the facility is subject to reporting requirements under EPCRA 313.

"Section 313 water priority chemicals" means a chemical or chemical categories which: (i) are listed at 40 CFR 372.65 (2002) pursuant to § 313 of the Emergency Planning and Community Right-to-Know Act (EPCRA) (also known as Title III of the Superfund Amendments and Reauthorization Act (SARA) of 1986) (42 USC § 11001 et seq.); (ii) are present at or above threshold levels at a facility subject to EPCRA § 313 reporting requirements; and (iii) that meet at least one of the following criteria: (a) are listed in Appendix D of 40 CFR Part 122 (2002) on either Table II (Organic priority pollutants), Table III (Certain metals, cyanides and phenols) or Table V (Certain toxic pollutants and hazardous substances); (b) are listed as a hazardous substance pursuant to § 311(b)(2)(A) of the Clean Water Act at 40 CFR 116.4 (2002); or (c) are pollutants for which EPA has published acute or chronic water quality criteria.

3. Facility-specific Storm Water Conditions

Glass, Clay, Cement, Concrete, and Gypsum Products

The requirements listed under this section apply to storm water discharges associated with industrial activity from facilities generally classified under Standard Industrial Classification (SIC) Major Group 32 that are engaged in either manufacturing the following products or performing the following activities: flat, pressed, or blown glass or glass containers; hydraulic cement; clay products, including tile and brick; pottery and porcelain electrical supplies; concrete products; gypsum products; nonclay refractories; minerals and earths, ground or otherwise treated; lime manufacturing; cut stone and stone products; asbestos products; and, mineral wool and mineral wool insulation products.

In addition to the requirements of Part I.2.b., the SWPPP shall include, at a minimum, the following items.

a. Site Description and Site Map

The site map shall identify the locations of the following, if applicable: bag house or other dust control device; recycle/sedimentation pond, clarifier or other device used for the treatment of process wastewater and the areas that drain to the treatment device.

b. Storm Water Controls

(1) Good Housekeeping

- (a) Facilities shall prevent or minimize the discharge of: spilled cement; aggregate (including sand or gravel); kiln dust; fly ash; settled dust; and, other significant materials in storm water from paved portions of the site that are exposed to storm water. Measures used to minimize the presence of these materials may include regular sweeping, or other equivalent measures. The plan shall indicate the frequency of sweeping or equivalent measures. The frequency shall be determined based upon consideration of the amount of industrial activity occurring in the area and frequency of precipitation, but shall not be less than once per week, if cement, aggregate, kiln dust, fly ash, or settled dust are being handled or processed.
 - (b) Facilities shall prevent the exposure of fine granular solids (such as cement, kiln dust, etc.) to storm water. Where practicable, these materials shall be stored in enclosed silos or hoppers, buildings, or under other covering.
- (2) Routine Facility Inspections

The inspection shall take place while the facility is in operation and shall include all of the following areas that are exposed to storm water: material handling areas, above ground storage tanks, hoppers or silos, dust collection/containment systems, truck wash down/equipment cleaning areas.

CONDITIONS APPLICABLE TO ALL VPDES PERMITS

A. Monitoring

1. Samples and measurements taken as required by this permit shall be representative of the monitored activity.
2. Monitoring shall be conducted according to procedures approved under Title 40 Code of Federal Regulations Part 136 or alternative methods approved by the U.S. Environmental Protection Agency, unless other procedures have been specified in this permit.
3. The permittee shall periodically calibrate and perform maintenance procedures on all monitoring and analytical instrumentation at intervals that will insure accuracy of measurements.

B. Records

1. Records of monitoring information shall include:
 - a. The date, exact place, and time of sampling or measurements;
 - b. The individual(s) who performed the sampling or measurements;
 - c. The date(s) and time(s) analyses were performed;
 - d. The individual(s) who performed the analyses;
 - e. The analytical techniques or methods used; and
 - f. The results of such analyses.
2. Except for records of monitoring information required by this permit related to the permittee's sewage sludge use and disposal activities, which shall be retained for a period of at least five years, the permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit, for a period of at least 3 years from the date of the sample, measurement, report or application. This period of retention shall be extended automatically during the course of any unresolved litigation regarding the regulated activity or regarding control standards applicable to the permittee, or as requested by the Board.

C. Reporting Monitoring Results

1. The permittee shall submit the results of the monitoring required by this permit not later than the 10th day of the month after monitoring takes place, unless another reporting schedule is specified elsewhere in this permit. Monitoring results shall be submitted to:

Virginia Department of Environmental Quality
South Central Regional Office
7705 Timberlake Road
Lynchburg, Virginia 24502
2. Monitoring results shall be reported on a Discharge Monitoring Report (DMR) or on forms provided, approved or specified by the Department.

3. If the permittee monitors any pollutant specifically addressed by this permit more frequently than required by this permit using test procedures approved under Title 40 of the Code of Federal Regulations Part 136 or using other test procedures approved by the U.S. Environmental Protection Agency or using procedures specified in this permit, the results of this monitoring shall be included in the calculation and reporting of the data submitted in the DMR or reporting form specified by the Department.
4. Calculations for all limitations which require averaging of measurements shall utilize an arithmetic mean unless otherwise specified in this permit.

D. Duty to Provide Information

The permittee shall furnish to the Department, within a reasonable time, any information which the Board may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit or to determine compliance with this permit. The Board may require the permittee to furnish, upon request, such plans, specifications, and other pertinent information as may be necessary to determine the effect of the wastes from his discharge on the quality of state waters, or such other information as may be necessary to accomplish the purposes of the State Water Control Law. The permittee shall also furnish to the Department upon request, copies of records required to be kept by this permit.

E. Compliance Schedule Reports

Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule of this permit shall be submitted no later than 14 days following each schedule date.

F. Unauthorized Discharges

Except in compliance with this permit, or another permit issued by the Board, it shall be unlawful for any person to:

1. Discharge into state waters sewage, industrial wastes, other wastes, or any noxious or deleterious substances; or
2. Otherwise alter the physical, chemical or biological properties of such state waters and make them detrimental to the public health, or to animal or aquatic life, or to the use of such waters for domestic or industrial consumption, or for recreation, or for other uses.

G. Reports of Unauthorized Discharges

Any permittee who discharges or causes or allows a discharge of sewage, industrial waste, other wastes or any noxious or deleterious substance into or upon state waters in violation of Part II F; or who discharges or causes or allows a discharge that may reasonably be expected to enter state waters in violation of Part II F, shall notify the Department of the discharge immediately upon discovery of the discharge, but in no case later than 24 hours after said discovery. A written report of the unauthorized discharge shall be submitted to the Department, within five days of discovery of the discharge. The written report shall contain:

1. A description of the nature and location of the discharge;
2. The cause of the discharge;
3. The date on which the discharge occurred;
4. The length of time that the discharge continued;
5. The volume of the discharge;
6. If the discharge is continuing, how long it is expected to continue;
7. If the discharge is continuing, what the expected total volume of the discharge will be; and

8. Any steps planned or taken to reduce, eliminate and prevent a recurrence of the present discharge or any future discharges not authorized by this permit.

Discharges reportable to the Department under the immediate reporting requirements of other regulations are exempted from this requirement.

H. Reports of Unusual or Extraordinary Discharges

If any unusual or extraordinary discharge including a bypass or upset should occur from a treatment works and the discharge enters or could be expected to enter state waters, the permittee shall promptly notify, in no case later than 24 hours, the Department by telephone after the discovery of the discharge. This notification shall provide all available details of the incident, including any adverse affects on aquatic life and the known number of fish killed. The permittee shall reduce the report to writing and shall submit it to the Department within five days of discovery of the discharge in accordance with Part II I 2. Unusual and extraordinary discharges include but are not limited to any discharge resulting from:

1. Unusual spillage of materials resulting directly or indirectly from processing operations;
2. Breakdown of processing or accessory equipment;
3. Failure or taking out of service some or all of the treatment works; and
4. Flooding or other acts of nature.

I. Reports of Noncompliance

The permittee shall report any noncompliance which may adversely affect state waters or may endanger public health.

1. An oral report shall be provided within 24 hours from the time the permittee becomes aware of the circumstances. The following shall be included as information which shall be reported within 24 hours under this paragraph:
 - a. Any unanticipated bypass; and
 - b. Any upset which causes a discharge to surface waters.
2. A written report shall be submitted within 5 days and shall contain:
 - a. A description of the noncompliance and its cause;
 - b. The period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and
 - c. Steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.

The Board may waive the written report on a case-by-case basis for reports of noncompliance under Part II I if the oral report has been received within 24 hours and no adverse impact on state waters has been reported.

3. The permittee shall report all instances of noncompliance not reported under Parts II I 1 or 2, in writing, at the time the next monitoring reports are submitted. The reports shall contain the information listed in Part II I 2.

NOTE: The immediate (within 24 hours) reports required in Parts II G, H and I may be made to the Department's Regional Office at (434) 582-5120 (voice) or (434) 582-5125 (fax). For reports outside normal working hours, leave a message and this shall fulfill the immediate reporting requirement. For emergencies, the Virginia Department of Emergency Services maintains a 24 hour telephone service at 1-800-468-8892.

J. Notice of Planned Changes

1. The permittee shall give notice to the Department as soon as possible of any planned physical alterations or additions to the permitted facility. Notice is required only when:
 - a. The permittee plans alteration or addition to any building, structure, facility, or installation from which there is or may be a discharge of pollutants, the construction of which commenced:
 - (1) After promulgation of standards of performance under Section 306 of Clean Water Act which are applicable to such source; or
 - (2) After proposal of standards of performance in accordance with Section 306 of Clean Water Act which are applicable to such source, but only if the standards are promulgated in accordance with Section 306 within 120 days of their proposal;
 - b. The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants which are subject neither to effluent limitations nor to notification requirements specified elsewhere in this permit; or
 - c. The alteration or addition results in a significant change in the permittee's sludge use or disposal practices, and such alteration, addition, or change may justify the application of permit conditions that are different from or absent in the existing permit, including notification of additional use or disposal sites not reported during the permit application process or not reported pursuant to an approved land application plan.
2. The permittee shall give advance notice to the Department of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.

K. Signatory Requirements

1. Applications. All permit applications shall be signed as follows:
 - a. For a corporation: by a responsible corporate officer. For the purpose of this section, a responsible corporate officer means: (i) A president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy- or decision-making functions for the corporation, or (ii) the manager of one or more manufacturing, production, or operating facilities employing more than 250 persons or having gross annual sales or expenditures exceeding \$25 million (in second-quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures;
 - b. For a partnership or sole proprietorship: by a general partner or the proprietor, respectively; or
 - c. For a municipality, state, federal, or other public agency: By either a principal executive officer or ranking elected official. For purposes of this section, a principal executive officer of a public agency includes: (i) The chief executive officer of the agency, or (ii) a senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency.
2. Reports, etc. All reports required by permits, and other information requested by the Board shall be signed by a person described in Part II K 1, or by a duly authorized representative of that person. A person is a duly authorized representative only if:
 - a. The authorization is made in writing by a person described in Part II K 1;

- b. The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity such as the position of plant manager, operator of a well or a well field, superintendent, position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters for the company. (A duly authorized representative may thus be either a named individual or any individual occupying a named position.); and
- c. The written authorization is submitted to the Department.
- 3. Changes to authorization. If an authorization under Part II K 2 is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of Part II K 2 shall be submitted to the Department prior to or together with any reports, or information to be signed by an authorized representative.
- 4. Certification. Any person signing a document under Parts II K 1 or 2 shall make the following certification:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

L. Duty to Comply

The permittee shall comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the State Water Control Law and the Clean Water Act, except that noncompliance with certain provisions of this permit may constitute a violation of the State Water Control Law but not the Clean Water Act. Permit noncompliance is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or denial of a permit renewal application.

The permittee shall comply with effluent standards or prohibitions established under Section 307(a) of the Clean Water Act for toxic pollutants and with standards for sewage sludge use or disposal established under Section 405(d) of the Clean Water Act within the time provided in the regulations that establish these standards or prohibitions or standards for sewage sludge use or disposal, even if this permit has not yet been modified to incorporate the requirement.

M. Duty to Reapply

If the permittee wishes to continue an activity regulated by this permit after the expiration date of this permit, the permittee shall apply for and obtain a new permit. All permittees with a currently effective permit shall submit a new application at least 180 days before the expiration date of the existing permit, unless permission for a later date has been granted by the Board. The Board shall not grant permission for applications to be submitted later than the expiration date of the existing permit.

N. Effect of a Permit

This permit does not convey any property rights in either real or personal property or any exclusive privileges, nor does it authorize any injury to private property or invasion of personal rights, or any infringement of federal, state or local law or regulations.

O. State Law

Nothing in this permit shall be construed to preclude the institution of any legal action under, or relieve the permittee from any responsibilities, liabilities, or penalties established pursuant to any other state law or regulation or under authority preserved by Section 510 of the Clean Water Act. Except as provided in permit conditions on "bypassing" (Part II U), and "upset" (Part II V) nothing in this permit shall be construed to relieve the permittee from civil and criminal penalties for noncompliance.

P. Oil and Hazardous Substance Liability

Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties to which the permittee is or may be subject under Sections 62.1-44.34:14 through 62.1-44.34:23 of the State Water Control Law.

Q. Proper Operation and Maintenance

The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes effective plant performance, adequate funding, adequate staffing, and adequate laboratory and process controls, including appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems which are installed by the permittee only when the operation is necessary to achieve compliance with the conditions of this permit.

R. Disposal of solids or sludges

Solids, sludges or other pollutants removed in the course of treatment or management of pollutants shall be disposed of in a manner so as to prevent any pollutant from such materials from entering state waters.

S. Duty to Mitigate

The permittee shall take all reasonable steps to minimize or prevent any discharge or sludge use or disposal in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment.

T. Need to Halt or Reduce Activity not a Defense

It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

U. Bypass

1. "Bypass" means the intentional diversion of waste streams from any portion of a treatment facility. The permittee may allow any bypass to occur which does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of Parts II U 2 and U 3.
2. Notice
 - a. Anticipated bypass. If the permittee knows in advance of the need for a bypass, prior notice shall be submitted, if possible at least ten days before the date of the bypass.
 - b. Unanticipated bypass. The permittee shall submit notice of an unanticipated bypass as required in Part II I.
3. Prohibition of bypass.
 - a. Bypass is prohibited, and the Board may take enforcement action against a permittee for bypass, unless:

- (1) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
 - (2) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and
 - (3) The permittee submitted notices as required under Part II U 2.
- b. The Board may approve an anticipated bypass, after considering its adverse effects, if the Board determines that it will meet the three conditions listed above in Part II U 3 a.

V. Upset

1. An upset constitutes an affirmative defense to an action brought for noncompliance with technology based permit effluent limitations if the requirements of Part II V 2 are met. A determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is not a final administrative action subject to judicial review.
2. A permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:
 - a. An upset occurred and that the permittee can identify the cause(s) of the upset;
 - b. The permitted facility was at the time being properly operated;
 - c. The permittee submitted notice of the upset as required in Part II I; and
 - d. The permittee complied with any remedial measures required under Part II S.
3. In any enforcement proceeding the permittee seeking to establish the occurrence of an upset has the burden of proof.

W. Inspection and Entry

The permittee shall allow the Director, or an authorized representative, upon presentation of credentials and other documents as may be required by law, to:

1. Enter upon the permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this permit;
2. Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;
3. Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit; and
4. Sample or monitor at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by the Clean Water Act and the State Water Control Law, any substances or parameters at any location.

For purposes of this section, the time for inspection shall be deemed reasonable during regular business hours, and whenever the facility is discharging. Nothing contained herein shall make an inspection unreasonable during an emergency.

X. Permit Actions

Permits may be modified, revoked and reissued, or terminated for cause. The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance does not stay any permit condition.

Y. Transfer of permits

1. Permits are not transferable to any person except after notice to the Department. Except as provided in Part II Y 2, a permit may be transferred by the permittee to a new owner or operator only if the permit has been modified or revoked and reissued, or a minor modification made, to identify the new permittee and incorporate such other requirements as may be necessary under the State Water Control Law and the Clean Water Act.
2. As an alternative to transfers under Part II Y 1, this permit may be automatically transferred to a new permittee if:
 - a. The current permittee notifies the Department at least 30 days in advance of the proposed transfer of the title to the facility or property;
 - b. The notice includes a written agreement between the existing and new permittees containing a specific date for transfer of permit responsibility, coverage, and liability between them; and
 - c. The Board does not notify the existing permittee and the proposed new permittee of its intent to modify or revoke and reissue the permit. If this notice is not received, the transfer is effective on the date specified in the agreement mentioned in Part II Y 2 b.

Z. Severability

The provisions of this permit are severable, and if any provision of this permit or the application of any provision of this permit to any circumstance, is held invalid, the application of such provision to other circumstances, and the remainder of this permit, shall not be affected thereby.

**INTERIM PROCEDURES
FOR
INFORMAL PUBLIC HEARINGS ON AIR AND WATER PERMIT ACTIONS
AND BOARD CONSIDERATION**

Introduction

The following interim procedures have been developed to implement legislation enacted by the 2008 General Assembly concerning permits issued under the authorities of the State Water Control Law, Ground Water Management Act, Surface Water Management Act and the State Air Pollution Control Law. The legislation provides that the State Water Control Board and State Air Pollution Control Board shall only act on those permits where a public hearing is held in response to requests for a public hearing meeting the criteria established in statute or where Board consideration is granted in response to requests for Board consideration meeting the criteria established in statute and may only act on those permits after the close of the public hearing comment period and submittal of a report by the Department to the Board. [NOTE: See §§ 10.1-1322.01 and 62.1-44.15:02] These interim procedures are to be used to process permits and to determine whether such a public hearing or Board consideration is required.

Procedure

A. This section sets forth interim internal procedures for all informal permit public hearings held pursuant to requests received during the draft permit public notice period where the draft permit was public noticed after July 1, 2008. These procedures are to be used for all air operating permits and all water permits.

1. Determining Need for Hearing on Applications for Permits - All Air and Water Permits Where Public Hearing is Based on Requests from Public (VPDES Permits - VPA Permits - VWP Permits - Ground Water Permits, Air Federal and State Operating Permits)

- a. Originating Unit (OU) causes notice of comment period on application to be issued to the applicant; to the mailing list; to the public; to the chief elected official, chief administrative officer and planning district commission for any locality particularly affected; and, in a newspaper of general circulation. (NOTE: Comment period begins on date of first publication of the notice in the newspaper, but do not count first day of publication when calculating the close date of the comment period.)

(NOTE: For water permits the term "locality particularly affected" means any locality which bears any identified disproportionate material water quality impact which would not be experienced by other localities and applies to any permit. For example, for a VPDES permit, locality particularly affected would include the locality where the facility is located and if a mixing zone extended into another locality, notice should also be published in that locality; at DEQ's cost.)

(NOTE: For air permits the term "locality particularly affected" means any locality which bears any identified disproportionate material air quality impact which would not be experienced by other localities and applies to any permit for the construction of

a new major source or for a major modification to an existing source.---insert example for air---)

- b. OU maintains list of those individuals, organizations, etc. that responded to the notice of the application.
- c. OU reviews all responses to the public notice and requests for public hearing in order to make a recommendation on the need for a public hearing. (NOTE: Final decision on holding a public hearing must be made by the Director within **30 days** after the close of the public comment period above. In those cases where the owner has requested a hearing or the OU believes that a public hearing should be held and there has been no notice of a comment period on a draft permit, the final decision on holding a public hearing should be made by the Director within **30 days** after the request for public hearing was received from the owner or was made by the OU.
- d. OU makes a determination as to whether the responses and requests meet the following criteria:
 - (1) That there is a significant public interest in the issuance, denial, modification, or revocation of the permit in question as evidenced by receipt of a minimum of **25 individual requests** for a public hearing;
 - (2) That the requesters raise substantial, disputed issues relevant to the issuance, denial, modification, or revocation of the permit in question; and
 - (3) That the action requested by the interested party is not on its face inconsistent with, or in violation of, state law, federal law or any regulation promulgated thereunder.
- e. If there are less than 25 individual requests for a public hearing, the permit is the Department's to decide and the OU may proceed to review and consider public comments and develop recommended final action on the permit. However, the OU is encouraged to contact requesters to discuss and attempt to resolve the requester's issues. Also, the OU is encouraged, if there are several requests for a public hearing but less than 25, to schedule a public meeting in the locality to educate and explain the permit to the public. If a public meeting is to be held, the permit should not be issued until after the public meeting in order to be able to make appropriate changes to the permit based on the information received at the public meeting.
- f. If at least 25 individual requests for a public hearing are received, the OU will proceed under Section A.2 for authorization to convene or deny a hearing. The OU may contact the requestors to attempt to resolve issue and, if issues are resolved, can ask that requests be withdrawn. This option can also include a public meeting in the locality. If a public meeting is to be held, the permit should not be issued until after the public meeting in order to be able to make appropriate changes to the permit based on the information received at the public meeting.

2. Authorization to Deny or Convene a Hearing

- a. The OU shall prepare an authorization memorandum to the Director which includes:
 - (1) brief background (include a purpose statement, information on the project, draft permit development, compliance with notification requirements, etc.)

- (2) copy of draft permit
 - (3) copy of draft permit fact sheet
 - (4) summary of comments and requests from public notices
 - (5) summary of OU's attempts to address comments from the public
 - (6) analysis of review of responses and requests as they apply to Section A.1.d.
 - (7) recommendation for denying or holding a hearing
 - (8) rationale for recommendation, i.e. criteria in section A.1.d.(2) or (3) are not met
 - (9) target date for Board action, if applicable.
 - (10) copy of responses received (if there is a large number, send representative samples)
- b. OU submits the authorization package electronically to the Chief Deputy, the Deputy Director and the Regulatory Affairs Office (RAO) Director. (NOTE: the authorization package must be submitted within **21 days** of the close of the comment period on the draft permit.)
 - c. Chief Deputy, Deputy Director and RAO Director review package and consult with Director with a decision from the Director made within **30 days** of the close of the comment period on the draft permit. The Chief Deputy and Deputy Director are authorized to make the final decision to grant a public hearing, but the Director retains the final decision authority to deny a public hearing.
 - d. Two days prior to the Director's tentative decision to deny a public hearing, the RAO Director will forward the package to the Board members in order to afford the Board members an opportunity to review the authorization package and provide comments to the Director. Within two days of a decision by the Director, Deputy Director or Chief Deputy to grant a public hearing, the RAO Director must forward the package to Board members in order to afford the Board members an opportunity to review the Director's decision.
 - e. Board members will be given **5 days** to individually advise the RAO Director that the member is requesting a meeting of the Board to be convened within **20 days** of the Director's decision to grant or deny a public hearing in order to review such decision and determine by a majority vote of the Board whether or not to grant a public hearing or to delegate the permit to the Director for his decision.
 - f. If the RAO Director receives requests from a majority (4) of the Board members, the RAO Director will, in consultation with the Board members, schedule a meeting of the Board such that at least **5 days** notice of the meeting can be provided to the public and a final decision on the granting or denying of the public hearing can be made within **20 days** after the Director's decision to grant or deny a public hearing.
 - g. If the RAO Director does not receive requests from a majority of the Board members, the Director's decision stands and the OU may proceed with the Director's decision.
 - h. If the Director or Board authorizes a public hearing, the permit is the Board's to decide and the OU will proceed to Section A.3 to arrange for a public hearing.
 - i. If the Director or Board denies a public hearing, the permit is the Department's to decide and the OU may proceed with appropriate and necessary steps to finalize the

permit action.

3. Arrangements for Public Hearing

- a. OU determines legal requirements for notice of public hearing based on statutes and regulations.
- b. The OU contacts the Board member that is geographically nearest to the hearing location to arrange for a mutually acceptable time, date and place for the hearing that complies with all legal regulations. (NOTE: Permit public hearings held in response to public requests shall be in the evening and there shall be an informational briefing immediately preceding the public hearing to provide information and answer questions.)

(NOTE: All public hearings authorized by the Director or the Board pursuant to sections A and B shall be chaired by a Board member.)

- c. OU prepares draft public hearing notice using public notice templates on DEQnet.
- d. OU establishes comment period start and end date in accordance with applicable laws and regulations. (NOTE: The public comment period for any permit subject to the locality particularly affected provisions of the air and water laws can not close in less than 15 days after the public hearing.)
- e. OU finalizes notice and forwards a copy to the RAO Director.
- f. OU is responsible for mailing the notice to interested parties, including those who requested a public hearing; any entities required by law or regulation to receive notice and appropriate Agency staff.
- g. OU sends notice to newspaper for publication in accordance with notice requirements of law and regulation and in accordance with purchasing procedures.
- h. OU verifies newspaper receipt and publication of notice.
- i. RAO causes notice of hearing to be posted to the Virginia Regulatory Town Hall.
- j. OU prepares opening remarks for Board member.
- k. OU sends public hearing package to Board member (opening remarks, travel arrangements, map, etc.) 10 days prior to hearing.
- l. OU Director or appropriate staff member may contact the Board member approximately 7 days before the hearing in order to set up a meeting prior to the hearing, if the hearing officer deems necessary.

4. Conduct of Hearing

- a. Attendees include technical support personnel from OU, and management representatives from the appropriate headquarters or regional office based on program

or geographical areas of responsibility and the degree of public interest or controversy surrounding the permit.

- b. OU tapes proceedings or hires a court reporter and receives all written statements for inclusion in the hearing file.
- c. OU closes file in accordance with date specified in notice.

5. Final Action by Board. (NOTE: A final decision must be made within **90 days** of the close of the public hearing comment period. OU should assume a maximum of **45 days** after the close of the public hearing comment period to complete the material for this section.)

- a. OU reviews all comments received relevant to the draft permit, technical issues and develops preliminary recommendations for concurrence by the OU Director.
- b. OU prepares a package for the Board book. The package must include:
 - (1) A memorandum to the Board with a purpose statement, background information on the permit up through the authorization to convene a public hearing, and a staff person and contact information.
 - (2) A summary of the comments received and the agency response to the comments (The OU can do either a "by commenter" based summary or an "issue based" summary. If an "issue based" summary is prepared, a listing of the names of the commenters must be included as an attachment to the summary and each issue should include a listing of who made the comment).
 - (3) A statement that full copy of comments is available by contacting the appropriate staff.
 - (4) A copy of the draft permit. (NOTE: The draft permit fact sheet/engineering analysis is not required, but can be included if OU believes it is necessary for the particular permit.)
 - (5) A clear and concise statement of the legal basis and justification of the recommended action. (NOTE: The Policy Managers for air and waste and for water are available to assist staff in the development of this statement.)
- c. The package is to be submitted for review as part of agenda development for the Board meeting and in accordance with the agenda development schedule released by the RAO.
- d. Summary and recommendations are discussed, reviewed and concurred on by Director through agenda review.
- e. RAO sends material to Board members in accordance with established agenda development schedule.
- f. OU prepares technical presentation and sends draft to appropriate Policy Manager at least **7 days** prior to meeting. Dry runs of staff presentations may be scheduled approximately **5 to 7 days** before the meeting.
- g. OU presents permit and summary of the hearing to the Board and makes staff recommendations.

- h. OU prepares minute setting forth Board action in accordance with schedule set forth by RAO.
- i. OU prepares documentation to carry out Board action for Regional Director's signature (permit, transmittal letter, etc.) and transmits documents to owner and other appropriate parties.

B. This section sets forth interim internal procedures for Board consideration for those air permits where a public hearing is held because it is mandatory under state or federal law or regulation. These procedures are to be used for Air Division units. (NOTE: there are no public hearings mandated under state or federal law or regulation for the issuance of water permits.)

- 1. Determining Need for Board Consideration - All Air Construction Permits Where Public Hearing is Required by State or Federal Law or Regulation Mandate (a public hearing is not discretionary – specifically Article 6 permits for stationary sources of hazardous air pollutants requiring a case by case MACT, major stationary sources and major modifications, stationary sources which have the potential for public interest and stationary sources for which any provision is to be based upon good engineering practice stack height that exceeds the hearing allowed by the GEP definition; Article 7 permits for major source of hazardous air pollutants; Article 8 permits for major PSD sources; and Article 9 permits for major sources and major modifications locating in nonattainment area)

- a. Originating Unit (OU) causes notice of public hearing comment period on application to be issued to the applicant; to the mailing list; to the public; to the chief elected official, chief administrative officer and planning district commission for any locality particularly affected; and, in a newspaper of general circulation. (NOTE: Comment period begins on date of first publication of the notice in the newspaper, but do not count first day of publication when calculating the close date of the comment period.)

(NOTE: For air permits the term "locality particularly affected" means any locality which bears any identified disproportionate material air quality impact which would not be experienced by other localities and applies to any permit for the construction of a new major source or for a major modification to an existing source.)

- b. OU maintains list of those individuals, organizations, etc. that responded to the notice of the application.
- c. OU reviews all responses to the public notice and requests for Board consideration in order to make a recommendation on the need for Board consideration. (NOTE: Final decision on Board consideration must be made by the Director within **30 days** after the close of the public hearing comment period above. In those cases where the owner has requested Board consideration or the OU believes that Board consideration is appropriate and there has been no notice of a public hearing comment period on a draft permit, the final decision on Board consideration should be made by the Director within **30 days** after the request for Board consideration was received from the owner or was made by the OU.
- d. OU makes a determination as to whether the responses and requests meet the

following criteria:

- (1) That there is a significant public interest in the issuance, denial, modification, or revocation of the permit in question as evidenced by receipt of a minimum of **25 individual requests** for Board consideration;
 - (2) That the requesters raise substantial, disputed issues relevant to the issuance, denial, modification, or revocation of the permit in question; and
 - (3) That the action requested by the interested party is not on its face inconsistent with, or in violation of, state law, federal law or any regulation promulgated thereunder.
- e. If less than 25 individual requests for Board consideration are received, the permit is the Department's to decide and the OU may proceed to review and consider public comments and develop recommended final action on the permit. (**NOTE:** The final decision on the permit must be made within **90 days** of the close of the public hearing comment period.)
- f. If at least 25 individual requests for Board consideration are received, the OU will proceed under Section B.2 for authorization of Board consideration. The OU may contact the requestors to attempt to resolve issue and, if issues are resolved, can ask that requests be withdrawn. Concurrently, the OU should begin preparation of material under Section B.3 in order to ensure a final permit decision can be made within **90 days** after the close of the public hearing comment period.

2. Authorization or Denial of Board Consideration

- a. The OU shall prepare an authorization memorandum to the Director which includes:
- (1) brief background (include a purpose statement, information on the project, draft permit development, compliance with notification requirements, etc.)
 - (2) copy of draft permit
 - (3) copy of draft permit fact sheet
 - (4) summary of responses and requests for Board consideration from public
 - (5) summary of OU's attempts to address comments from the public
 - (6) analysis of review of responses and requests for Board consideration as they apply to Section B.1.d.
 - (7) recommendation for authorizing or denying Board consideration
 - (8) rationale for recommendation, i.e. criteria in Section B.1.d.(2) or (3) are not met
 - (9) target date for Board action, if applicable
 - (10) copy of responses received (if there is a large number, send representative samples)
- b. OU submits the authorization package electronically to the Chief Deputy, the Deputy Director and the Regulatory Affairs Office (RAO) Director. (**NOTE:** the authorization package must be submitted within **21 days** of the close of the public hearing comment period on the draft permit.)
- c. Chief Deputy, Deputy Director and RAO Director review package and consult, as necessary, with Director with a decision from the Director made within **30 days** of the close of the comment period on the draft permit. (**NOTE:** the Chief Deputy and Deputy Director are authorized to make the final decision to grant Board

consideration, but the Director retains the final decision authority to deny Board consideration.)

- d. Once the decision has been made, the RAO Director forwards package to Board members in order to afford the Board members an opportunity to review the Director's decision. (NOTE: the package must be forwarded to the Board members within **2 days** of the Director's decision.)
 - e. Board members will be given **5 days** to individually advise the RAO Director that the member is requesting a meeting of the Board to be convened within 20 days of the Director's decision to grant or deny Board consideration in order to review such decision and determine by a majority vote of the Board whether or not to grant Board consideration or to delegate the permit to the Director for his decision.
 - f. If the RAO Director receives requests from a majority (4) of the Board members, the RAO Director will, in consultation with the Board members, schedule a meeting of the Board such that at least **5 days** notice of the meeting can be provided to the public and a final decision on the granting or denying of Board can be made within **20 days** after the Director's decision to grant or deny Board consideration.
 - g. If the RAO Director does not receive requests from a majority of the Board members, the Director's decision stands and the OU may proceed with the Director's decision.
 - h. If the Director or Board authorizes Board consideration, the permit is the Board's to decide and the OU will proceed to Section A.3 to arrange for Board consideration.
 - i. If Board consideration is denied, the permit is the Department's to decide and the OU may proceed with appropriate and necessary steps to finalize the permit action.
3. Final Action by Board. (NOTE: A final decision must be made within **90 days** of the close of the public hearing comment period. OU should assume a maximum of **45 days** after the close of the public hearing comment period to complete the material for this section.)
- a. OU reviews all comments received relevant to the draft permit, technical issues and develops preliminary recommendations for concurrence by the OU Director.
 - b. OU prepares a package for the Board book. The package must include:
 - (1) A memorandum to the Board with a purpose statement, background information on the permit up through the authorization of Board consideration, and a staff person and contact information.
 - (2) A summary of the comments received and the agency response to the comments (The OU can do either a "by commenter" based summary or an "issue based" summary. If an "issue based" summary is prepared, a listing of the names of the commenters must be included as an attachment to the summary and each issue should include a listing of who made the comment).
 - (3) A statement that full copy of comments is available by contacting the appropriate staff.
 - (4) A copy of the draft permit. (NOTE: The draft permit fact sheet/engineering analysis is not required, but can be included if OU believes it is necessary for the particular permit.)

(5) A clear and concise statement of the legal basis and justification of the recommended action. (NOTE: The Policy Managers for air and waste and for water are available to assist staff in the development of this statement.)

- c. The package is to be submitted for review as part of agenda development for the Board meeting and in accordance with the agenda development schedule released by the RAO.
- d. Summary and recommendations are discussed, reviewed and concurred on by Director through agenda review.
- e. RAO sends material to Board members in accordance with established agenda development schedule.
- f. OU prepares technical presentation and sends draft to appropriate Policy Manager at least **7 days** prior to meeting. Dry runs of staff presentations may be scheduled approximately **5 to 7 days** before the meeting.
- g. OU presents permit and summary of the hearing to the Board and makes staff recommendations.
- h. OU prepares minute setting forth Board action in accordance with schedule set forth by RAO.
- i. OU prepares documentation to carry out Board action for Regional Director's signature (permit, transmittal letter, etc.) and transmits documents to owner and other appropriate parties.